

Appendix 1b

OVERVIEW AND SCRUTINY COMMITTEE TERMS OF REFERENCE (CONTINUED)

(Council Constitution Part 4 “Rules of Procedure”, Section 4.5 - Overview and Scrutiny Procedure Rules)

4.5. Overview and Scrutiny Procedure Rules

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1. THE ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

- 1.1 The Council will establish the Overview and Scrutiny Committee and Sub-Committees or Scrutiny Panels set out in Article 6. The Council will appoint Members of the Overview and Scrutiny Committee and the Overview and Scrutiny Committee will appoint Members of the Sub-Committees or Scrutiny Panels.

- 1.2** There will be one standing Scrutiny Panel to discharge the Council's functions under the Health and Social Care Act 2001. There will be such other Scrutiny Panels during the course of the municipal year as the Committee considers appropriate from time to time to carry out individual reviews under the Overview and Scrutiny work programme.
- 1.3** The Overview and Scrutiny Committee will comprise nine Members of the Council. Up to three substitutes may be appointed for each Member. Its terms of reference are:
- (a) The performance of all overview and scrutiny functions on behalf of the Council.
 - (b) The appointment of such Sub-Committees (Scrutiny Panels) as it considers appropriate to fulfil those functions, determining those Scrutiny Panels composition (including any co-opted Members) and terms of reference.
 - (c) To approve an annual overview and scrutiny work programme including the work programme of any Scrutiny Panels it appoints to ensure that there is efficient and effective use of the Committee's time and the time of the Council's Scrutiny Panels.
 - (d) To advise the Cabinet of key issues/questions to be considered in relation to reports due to be considered by Cabinet.
 - (e) To exercise the right to call in for reconsideration of any executive decisions taken but not yet implemented.
 - (f) To determine whether to request full Council to review or scrutinise any decision called in, where considered contrary to the budget and policy framework and whether to recommend that the decision be reconsidered.
 - (g) To receive and consider requests from the Executive for scrutiny involvement in the annual budget process.
 - (h) To monitor the Executive's forward plan to ensure that appropriate matters are subject to scrutiny.
 - (i) To consider any matters relevant to the remit of the Committee required by a Committee Member to be considered under s.21 (8) Local Government Act 2000.
 - (j) To consider any local government matter referred to the Committee by a Councillor in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007.

- (k) To discharge the functions conferred by the Police and Justice Act 2006 as the Council's Crime and Disorder Committee.

1.4 The Health Scrutiny Panel will undertake the Council's functions under the Health and Social Care Act 2001 and to consider matters to the local health service as provided by the NHS and other bodies including the Council:

- (a) To review and scrutinise matters relating to the health service within the Council's area and make reports and recommendations in accordance with any regulations made thereunder;
- (b) To respond to consultation exercises undertaken by an NHS body; and
- (c) To question appropriate officers of local NHS bodies in relation to the policies adopted and the provision of the services.

1.5 The membership of individual Scrutiny Panels and their terms of reference will be determined by the Overview and Scrutiny Committee. They will include the following:

- (a) To investigate, scrutinise, monitor and advise in relation to:
 - How services are being delivered and the Council's functions discharged.
 - How policies have been implemented and their effect on the Council's corporate strategies (i.e. equal opportunities, anti-poverty and crime and disorder).
 - The development of relevant policy.
 - How resources are being used, spent and managed.
 - Any other matter, relevant to the specific remit of the Scrutiny Panels, which affects the Council's area or any of its inhabitants.

2. WHO MAY SIT ON OVERVIEW AND SCRUTINY?

2.1 All Councillors except Members of the Executive may be Members of the Overview and Scrutiny Committee and Scrutiny Panels. However, no Member may be involved in scrutinising a decision in which s/he has been directly involved.

2.2 The Overview and Scrutiny Committee will select from among its Councillor Members six lead Scrutiny Members, one for each of the themes set out in Article 6.04 of this Constitution. These themes may be subject to change from time to time.

2.3 The Lead Scrutiny Member for a Healthy Community shall be appointed as a member and Chair of the Health Scrutiny Panel.

3. CO-OPTees

- 3.1** The Overview and Scrutiny Committee will be responsible for approving co-opted Members for the Scrutiny Panels. Co-opted Members will be non-voting.

4. EDUCATION REPRESENTATIVES

- 4.1** The Overview and Scrutiny Committee must include in its membership the following voting representatives in respect of education matters:

4.1.1 One Church of England diocese representative;

4.1.2 One Roman Catholic diocese representative; and

4.1.3 Two parent governor representatives elected under the procedures contained in the Parent Governor Representatives (England) Regulations 2001.

This Rule and Rule 4.2 and 4.3 below also apply to any Scrutiny Panel established in respect of education matters.

- 4.2** The Committee may also include a Muslim representative in a non-voting capacity.

- 4.3** These Members may speak but not vote on any other (i.e. non educational) matters.

5. MEETINGS

- 5.1** The Overview and Scrutiny Committee shall meet in accordance with the calendar of meetings approved by full Council. The Chair of the Committee may call an extraordinary meeting of the Committee at any time subject to the ordinary rules on the convening of meetings and the Access to Information Procedure Rules.

- 5.2** The Scrutiny Panels shall meet in accordance with a timetable agreed by the Overview and Scrutiny Committee, but will establish their own pattern of meetings within this framework and the Chair of Scrutiny may decide to lead any scrutiny panels.

6. QUORUM

- 6.1** The quorum for the Overview and Scrutiny Committee and the Scrutiny Panels shall be three voting Members.

7. WHO CHAIRS THE OVERVIEW AND SCRUTINY COMMITTEE AND THE SCRUTINY PANELS

- 7.1** The Chair of the Overview and Scrutiny Committee and the Chairs of the Scrutiny Panels will be drawn from among the Councillors sitting on the Committee. Subject to this requirement, the Committee may appoint such a person as it considers appropriate as Chair.

8. WORK PROGRAMME

- 8.1** The Overview and Scrutiny Committee will be responsible for agreeing the overview and scrutiny work programme for the year.

9. AGENDA ITEMS

- 9.1** Any Member of the Overview and Scrutiny Committee and/or any Scrutiny Panel shall be entitled to give notice to the Assistant Chief Executive that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. On receipt of such a request the Assistant Chief Executive will ensure that it is included on the next available agenda provided that it is relevant to the Committee work programme.

- 9.2** The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Executive shall consider at one of its next two meetings following the date. If the matter is relevant to the Council only then will they consider the report at their next meeting.

- 9.3** Any Member of the Council may refer to the Overview and Scrutiny Committee a local government matter in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007. In relation to any matter referred under this provision, the Committee shall consider whether or not to exercise its powers under section 21B of the Local Government Act 2000 to make a report or recommendation(s) to the authority or the executive on the matter.

- 9.4** A "local government matter" at 9.3 above is one that: (a) relates to the discharge of any function of the authority; (b) affects all or part of the Member's electoral area or any person who lives or works in that area; and (c) is not an excluded matter. Excluded matters are: any matter relating to a planning decision; any matter relating to a licensing decision; any matter relating to an individual in respect of which the individual has a right of appeal; and any matter which is

vexatious, discriminatory or not reasonable to be included in the agenda for, or disclosed at, the Overview and Scrutiny Committee or Panel.

- 9.5** If the Committee decides not to exercise any of its powers in relation to a matter referred to it under 9.3 above, it shall notify the Member who referred the matter of its decision and the reasons for it. If the Committee does make any report or recommendation(s) to the authority or the executive on the matter referred, it shall provide the Member with a copy of that report or recommendation(s), subject to the provisions of section 21D of the Act regarding confidential or exempt information.

10. POLICY REVIEW AND DEVELOPMENT

- 10.1** The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 10.2** In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Executive for developments in so far as they relate to matters within its terms of reference.
- 10.3** The Overview and Scrutiny Committee or any Scrutiny Panel established for this purpose may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11. REPORTS FROM OVERVIEW AND SCRUTINY

- 11.1** All reports from Scrutiny Panels must first be considered by the Overview and Scrutiny Committee. Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Assistant Chief Executive for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework) or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

11.2 The Executive shall consider the report of the Overview and Scrutiny Committee one of its next two meetings following submission of the report to the Assistant Chief Executive. The Council will consider the report at its next ordinary meeting if appropriate.

11.3 Where the Overview and Scrutiny Committee makes a report or recommendations in relation to a local improvement target which relates to certain partner authorities, and is specified in a local area agreement of the authority, the Committee may in accordance with section 21C of the Local Government Act 2000 (as amended) by notice in writing require the relevant partner authority to have regard to the report or recommendation in question in exercising their functions. Such notice will be accompanied by a copy of the report or recommendations (subject to the provisions of section 21D of the Act regarding confidential or exempt information). It is the duty of a relevant partner authority to which the notice is given to comply with the requirement specified in the notice.

12. MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE EXECUTIVE

12.1 Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Assistant Chief Executive who will allocate it to either the Executive or the Council for consideration in accordance with the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and the Local Authorities (arrangements for the Discharge of Functions) Regulations 2000.

12.2 If the Assistant Chief Executive refers the matter to Council, s/he may first refer it to Executive, who will have two weeks in which to consider the Overview and Scrutiny report and formulate any additional comments or recommendations. The Executive will then refer the report, along with their own additional comments and recommendations, to the Council. When the Council does meet to consider any referral from an Overview and Scrutiny Committee, it shall also consider any additional comments or recommendations of the Executive to the Overview and Scrutiny Committee proposals.

12.3 For the avoidance of doubt, the Executive shall not alter or amend any Overview and Scrutiny Committee report before referring it to Council, but shall only make additional comments or recommendations (including any corporate, financial or legal implications) as may be appropriate. However, if the Council does not agree with the Executive's recommendations, the disputes resolution procedure in Part 4.3 – Budget and Policy Framework Procedure Rules – Rule 2 – will apply.

12.4 If the contents of the report would not have implications for the Council's budget and policy framework, and is thus not referred to Council by the Assistant Chief Executive, the Executive will have 2 weeks in which to consider the matter and respond to the overview and scrutiny report.

12.5 Where the Overview and Scrutiny Committee makes a report or recommendations to the authority or the executive in accordance with section 21B of the Local Government Act 2000 as amended, the Committee shall by notice in writing require the authority or executive:-

(a) to consider the report or recommendations;

(b) to respond to the overview and scrutiny committee indicating what (if any) action the authority propose, or the executive proposes, to take;

(c) if the Overview and Scrutiny Committee has published the report or recommendations, to publish the response,

(d) if the Overview and Scrutiny committee provided a copy of the report or recommendations to a Member of the Authority under paragraph 9.4 of these Procedure Rules, to provide that Member with a copy of the response,

and to do so within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.

12.6 It is the duty of the authority or executive to which a notice is given under 12.5 above to comply with the requirements specified in the notice.

13. RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS

13.1 In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee or a Scrutiny Panel have such additional rights to documents, and to notice of meetings as may be set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

13.2 Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

14. MEMBERS AND OFFICERS GIVING ACCOUNT

14.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling their role, they may require the Leader, any other Member of the

Executive, a Councillor, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- 14.1.1** any particular decision or series of decisions;
 - 14.1.2** the extent to which the actions taken implement Council policy; and/or
 - 14.1.3** their performance, within their area of responsibility; and it is the duty of those persons to attend as so required.
 - 14.1.4** any function exercisable by a Councillor in accordance with any delegation made by the Council under section 236 of the Local Government and Public Involvement in Health Act 2007.
- 14.2** Where any Member or officer is required to attend the Overview and Scrutiny Committee or a Scrutiny Panel under this provision, the Chair of the Committee or Panel will inform the Chief Executive. The Chief Executive shall inform the Member or officer in writing giving at least 15 working days notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the Committee or Panel. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 14.3** Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Committee or Panel shall in consultation with the Member or officer arrange an alternative date for attendance, to take place within a maximum of 21 working days from the date of the original request.

15. ATTENDANCE BY OTHERS

- 15.1** The Overview and Scrutiny Committee or a Scrutiny Panel may invite people other than those people referred to in Rule 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

16. CALL-IN

- 16.1** When a decision is made by the Cabinet, an individual Member of the Executive, a Committee of the Executive, or a key decision is made by an officer with delegated authority or under joint arrangements, the decision shall be published, including where possible by electronic

means, and shall be available at the main offices of the Council normally within 5 working days of being made. Members of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

16.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented at 5pm on the fifth clear working day, after the publication of the decision unless, after receiving a written request to do so, the Assistant Chief Executive calls the decision in.

16.3 During that period, the Assistant Chief Executive shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by:

16.3.1 Not less than five Members of the Council; or

16.3.2 Two voting church, faith or parent governor representative in respect of any education matters only;

16.3.3 The request for a call-in must give reasons in writing and outline an alternative course of action. In particular, the request must state whether or not those Members believe that the decision is outside the policy or budget framework.

16.4 The Assistant Chief Executive shall call-in a decision within twenty-four hours of receiving a written request to do so and shall place it on the agenda of the next meeting of the Overview and Scrutiny Committee on such a date as s/he may determine, where possible after consultation with the Chair of the Committee, and in any case within five clear working days of the decision to call-in. However, the Assistant Chief Executive will not call-in:

16.4.1 Any decision which has already been the subject of call-in;

16.4.2 A decision which is urgent as defined in Rule 17.1 below and has to be implemented prior to the completion of any review. In such circumstances the decision – taker(s) shall give reasons to the Overview and Scrutiny Committee; and

16.4.3 Decisions by regulatory and other Committees discharging non-executive functions;

16.4.4 Day to day management and operational decisions taken by officers;

16.4.5 A resolution which merely notes the report or the actions of officers;

- 16.4.6** A resolution making recommendations to full Council.
- 16.5** Where the matter is in dispute, both the Assistant Chief Executive and the Monitoring Officer should be satisfied that one of the above criteria applies.
- 16.6** The Assistant Chief Executive shall then notify the decision-taker of the call-in, who shall suspend implementation of the decision.
- 16.7** If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Executive for reconsideration, setting out in writing the nature of its concerns or if the matter should properly be considered by Council refer the matter to full Council. If referred to the decision-maker they shall then reconsider within a further 5 clear working days or as soon as is reasonably practical thereafter, amending the decision or not, before adopting a final decision.
- 16.8** For the avoidance of doubt, if the Overview and Scrutiny Committee refers a matter back to the decision-making person or body, the implementation of that decision shall be suspended until such time as the decision-making person or body reconsiders and either amends or confirms that decision.
- 16.9** If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further 5 working day period, whichever is the earlier.
- 16.10** If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, then the Council will refer any decision to which it objects back to the decision making person or body together with the Council's views on the decision. That decision making person or body shall decide whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of the Executive, a meeting will be convened to reconsider within five clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five clear working days of the Council request.
- 16.11** If the Council does not meet, or it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

17. CALL-IN AND URGENCY

- 17.1** The call-in procedure set out in Rule 16 above shall not apply where the decision being taken by the Executive or a Committee of the Executive, or the key decision being made by an officer with delegated authority from the Executive or under joint arrangements is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interests.
- 17.2** The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
- 17.3** The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Mayor's consent shall be required. In the absence of both, the consent of the Deputy Mayor or the Head of Paid Service or her/his nominee shall be required.
- 17.4** Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 17.5** The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

18. THE PARTY WHIP

- 18.1** The use of the party whip to influence decisions of the Overview and Scrutiny Committee or one of its Panels is inappropriate.
- 18.2** In this rule "a party whip" means any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should s/he speak or vote in any particular manner.

19. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

- 19.1** The Overview and Scrutiny Committee and the Scrutiny Panels shall consider the following business:

- (i) Minutes of the last meeting;
- (ii) Declarations of interest;
- (iii) Consideration of any matter referred to the Committee for a decision in relation to call-in;
- (iv) Responses of the Executive to reports of Overview and Scrutiny;
- (v) The business otherwise set out on the agenda for the meeting.

19.2 Where the Overview and Scrutiny Committee or a Scrutiny Panel conducts investigations (e.g. with a view to policy development), the body may also ask people to attend to give evidence at meetings of the body. Such meetings are to be conducted in accordance with the following principles:

19.2.1 that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

19.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and

19.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

19.3 Following any investigation or review, the Committee or Panel shall prepare a report, for submission to the Executive and/or Council as appropriate by the Overview and Scrutiny Committee, and shall make its report and findings public in so far as the report does not contain exempt or confidential information.

20. SUSPENSION

20.1 Any part of these Rules may be suspended in accordance with Council Procedure Rule 27 of Part 4.1 of this Constitution provided such suspension is not contrary to the law.